IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 19753 of 1996

Between:

CPL Tomar SS (S.No. 720401-R) s/o Ramsing, Aged: about 29 years, Air Force Service, Air Force, Hakimpet, Secunderabad, r/o Secunderabad.

..... PETITIONER

AND

1. The Chief of the Air Staff, Air Headquarters, Vayubhavan, New Delhi-110 011.
2. The Air Officer-in-Charge, Air Force Records, Air Force Records Office, Subroto Park, New Delhi-110 010.
3. The Officer Commanding, No. 26 ED (Dett), Air Force, Hakimpet, Secunderabad-560 014.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Certiorari, calling for the records relating to the order No. 26 ED (D)/1050/21/P3 dated 14-09-1996 from the file of the 3rd respondent and after perusing the same quash it by holding it as arbitrary, unjust and illegal and consequently direct the respondents to continue the petitioner in service until he completes his regular engagement with all consequential benefits.

Counsel for the Petitioner: MR. V. JAGAPATHI

Counsel for the Respondent No.1 to 3: Addl. S.C. for C.G.

The Court made the following :

:ORAL ORDER:

By the proceedings dated 14-09-1996, the petitioner was discharged from the service of the Indian Air Force aggrieved whereby, he has lodged this writ petition for appropriate reliefs. The discharge is simpliciter and non-stigmatic.

The respondents have filed a counter affidavit stating that the petitioner was engaged as a mechanical transport driver by trade. As per the conduct sheet of the petitioner, he is seen to have committed serious offences at different times, such as absence without intimation, insubordination and intoxication leading to indiscipline. The petitioner was at the threshold of inclusion in a list of habitual offenders, in the year 1995. At this stage, he was served written warning on 07-04-1995, which was duly acknowledged by him. This warning sensitized the petitioner to the adverse entry in his conduct sheet and that it would lead to summary discharge from service under the provisions of Paragraph 15 (2) (g)(ii) of Air Force Rules. After receipt of the written warning on 07-04-1995, together with the caution contained therein, the petitioner incurred yet another punishment of 'severe reprimand' on 17-07-1995. Thus, he incurred a total number of six (6) punishment entries, which include four 'Red ink' entries and two 'Black ink' entries and was served 'show cause notice' on 28-09-1995 as to why he be not discharged under Rule 15 (2) (g) (ii) of the Air Force Rules. To the show cause notice, the petitioner submitted a reply which having been considered, the authorities had come to the conclusion that as he is a 'habitual offender', his discharge was in the interest of the service in accordance with the head-quarters policy read with Rule 15 (2) (g)(ii) of the Air Force Rules. The petitioner has not recorded any demurral to the assertions in the counter affidavit.

In the light of the facts stated in the counter affidavit, the discharge of the petitioner from the Air Force Services by the impugned order is seen to suffer from no infirmity warranting curial intervention. The writ petition is without merits, beseech rejection and is accordingly dismissed. No cost.

GODA RAGHURAM, J

Dt. 05-08-2004

Pvks/DSR.

To

1.The Chief of the Air Staff, Air Headquarters, Vayubhavan, New Delhi-110 011.

2.The Air Officer-in-Charge, Air Force Records, Air Force Records Office, Subroto Park, New Delhi-110 010.

3.The Officer Commanding, No. 26 ED (Dett), Air Force, Hakimpet, Secunderabad-560 014.

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